

**WASHINGTON** - Congressman Spencer Bachus has sent a letter to the BRAC Commission calling on the Pentagon to comply with the BRAC law, which would require keeping the 117<sup>th</sup> in Birmingham.

A recently released Department of Justice legal opinion regarding the Department of Defense's Air Guard recommendations appears to support the Pentagon proposal for the realignment of dozens of Air Guard units nationwide, including moving Birmingham's 117th Air Wing. However, a careful (and more accurate) reading of the opinion itself clearly shows that BRAC legislation requires the DOD to rely on "military value" rather than arbitrary "military judgment."

Currently, six Air National Guard Tanker wings determined to have less military value than Birmingham's 117th are slated to remain in place or see an increase in aircraft, while the 117th is threatened with the loss of its air capabilities.

An excerpt from the August 10, 2005, DOJ memorandum to BRAC Chairman Anthony Principi reads as follows:

“Congress also has enumerated four ‘military value’ criteria, and four ‘other’ criteria, on which the Secretary must rely, and has provided that these, along with the plan and inventory, shall be the ‘only criteria’ on which he relies.”

“By relying on ‘military judgment’ ahead of the ‘military value’ criteria clearly set out in the BRAC statutes, the Department of Defense has deviated from the BRAC law and the intent of the Congress. Specifically with regard to Birmingham's 117th Air Refueling Wing, there were six Air Guard units throughout the country with lower ‘military value’ scores that, nonetheless, are slated to have their number of tankers either maintained or increased, while Birmingham's 117th is threatened with the removal of its aircraft,”

Congressman Bachus said.

Congressman Bachus credits Colonel Paul Brown of the 117<sup>th</sup> for bringing the Department of Justice memorandum language to his attention.

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